

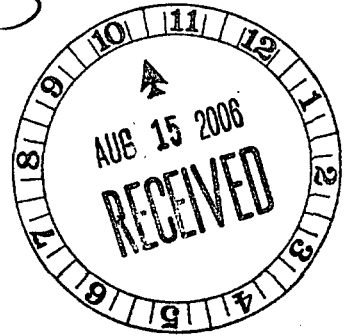
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BEFORE THE  
SURFACE TRANSPORTATION BOARD

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Finance Docket No. 34905

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VILLAGE OF CROTON-ON-HUDSON, NEW YORK

v.

BUFFALO SOUTHERN RAILROAD, INC., et al.

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ANSWER OF RS ACQUISITION CO., LLC  
TO FORMAL COMPLAINT

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Attorneys for RS Acquisition Co., LLC

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Public Record

Dated: August 14, 2006

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SURFACE TRANSPORTATION BOARD

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RS Acquisition Co., LLC ("RSA") hereby answers the Formal Complaint (the "Complaint") filed by the Village of Croton-on-Hudson, New York (the "Village") in this proceeding, as follows:

The Parties

1. RSA admits the allegations of paragraph 1 of the Complaint.
2. RSA admits the allegations of paragraph 2 of the Complaint.
3. RSA admits the allegations of paragraph 3 of the Complaint.
4. RSA admits the allegations of paragraph 4 of the Complaint.
5. RSA admits the allegations of paragraph 5 of the Complaint except that RSA denies that Northeast Interchange Railway, LLC ("NIR") is the former lessee of the Property and Track, as defined in the Complaint.

### The Facts

6. On information and belief, RSA admits the allegations of paragraph 6 of the Complaint, but reference should be made to the documents referred to in paragraph 6 of the Complaint for the true, correct and complete contents thereof.

7. RSA lacks sufficient knowledge or information to respond to the allegations of paragraph 7 of the Complaint.

8. On information and belief, RSA admits the allegations of paragraph 8 of the Complaint, but reference should be made to the documents referred to in paragraph 8 of the Complaint for the true, correct and complete contents thereof.

9. On information and belief, RSA admits the allegations of paragraph 9 of the Complaint.

10. RSA denies the allegations of the first sentence of paragraph 10 of the Complaint. RSA admits the allegations of the second sentence of paragraph 10 of the Complaint, but reference should be made to the documents referred to after the second sentence of paragraph 10 of the Complaint for the true, correct and complete contents thereof.

11. RSA denies the allegations of paragraph 11 of the Complaint.

12. On information and belief, RSA admits the allegations of paragraph 12 of the Complaint, but reference should be made to the documents referred to in paragraph 12 of the Complaint for the true, correct and complete contents thereof.

13. On information and belief, RSA admits the allegations of paragraph 13 of the Complaint, but reference should be made to the document referred to in paragraph 13 of the Complaint for the true, correct and complete contents thereof.

14. On information and belief, RSA admits the allegations of paragraph 14 of the Complaint.

15. RSA denies the allegations of paragraph 15 of the Complaint.

16. On information and belief, RSA admits the allegations of paragraph 16 of the Complaint, but reference should be made to the documents referred to in paragraph 16 of the Complaint for the true, correct and complete contents thereof.

17. On information and belief, RSA admits the allegations of paragraph 17 of the Complaint, but reference should be made to the documents referred to in paragraphs 16 and 17 of the Complaint for the true, correct and complete contents thereof.

18. RSA lacks sufficient knowledge or information to respond to the allegations of paragraph 18 of the Complaint.

19. RSA denies the allegations of paragraph 19 of the Complaint. Reference should be made to the document referred to in paragraph 19 of the Complaint for the true, correct and complete contents thereof.

20. On information and belief, RSA admits the allegations of paragraph 20 of the Complaint.

21. On information and belief, RSA denies the allegations of paragraph 21 of the Complaint. Reference should be made to the document referred to in paragraph 21 of the Complaint for the true, correct and complete contents thereof.

22. On information and belief, RSA admits the allegations of paragraph 22 of the Complaint, but reference should be made to the document referred to in paragraph 22 of the Complaint for the true, correct and complete contents thereof.

23. On information and belief, RSA denies the allegations of paragraph 23 of the Complaint to the extent that they imply Buffalo Southern Railroad, Inc. ("BSOR") voluntarily refused to accept solid waste as defined by New York State regulations. On information and belief, RSA admits the other allegations of paragraph 23 of the Complaint, but reference should be made to the document referred to in paragraph 23 of the Complaint for the true, correct and complete contents thereof.

24. On information and belief, RSA admits the allegations of paragraph 24 of the Complaint, but reference should be made to the document referred to in paragraph 24 of the Complaint for the true, correct and complete contents thereof.

25. On information and belief, RSA denies the allegations of paragraph 25 of the Complaint.

#### Defenses to Complaint

1. The track that BSOR has acquired and is operating in Croton on Hudson, New York (the "Croton Track") is excepted track within the meaning of 49 U.S.C. 10906. The Croton Track is, therefore, not subject to the licensing authority of the Board. Consequently, the Complaint fails to state a claim upon which relief may be granted and must be dismissed.

2. The allegations of the Complaint are insufficient to provide any basis for any determination by the Board that RSA has knowingly authorized, consented to or permitted any violation of any provisions of 49 U.S.C. Subtitle IV, Part A or that any fines are warranted pursuant to 49 U.S.C. 11901(c). Consequently, the Complaint fails to state a claim upon which relief may be granted and must be dismissed.

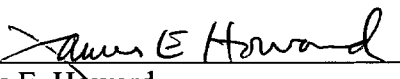
3. The necessary predicate for any relief requested in the Complaint is a determination that the Croton Track is a line of railroad within the meaning of 49 U.S.C. 10902 rather than an excepted track within the meaning of 49 U.S.C. 10906. This issue is already before the Board as a result of the filing by BSOR of a Verified Notice of Exempt Transaction and motion to dismiss in Finance Docket No. 34903. The Complaint should, therefore, be dismissed as being duplicative and unnecessary.

4. RSA, which is not a rail carrier, is not subject to the jurisdiction of the Board for purposes of injunctive relief or the assessment of fines. The Complaint, therefore, fails to state a claim upon which relief may be granted and must be dismissed.

WHEREFORE, RSA requests the Board to dismiss the Complaint with prejudice.

Respectfully submitted,

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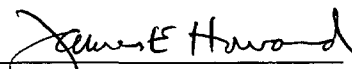
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Telephone 518-432-8000

Attorneys for RS Acquisitions Co., LLC

Dated: August 14, 2006

Certificate of Service

I hereby certify that I have served the foregoing pleading by sending a copy via Federal Express on August 14, 2006 to Michael B. Gerrard, Arnold & Porter LLP, 399 Park Ave., New York, NY 10022-4690, Nicholas Caputo, 1345 Ave. of the Americas, New York, NY 10105 and William A. Mullins, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037.

  
James B. Howard